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Special Master

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

TESSERA, INC.,  
vs.  
ADVANCED MICRO DEVICES, INC., et al.

CASE NO. 4:05-CV-04063-CW

CASE NO. 4:12-CV-00692-CW

TESSERA, INC.,  
vs.  
MOTOROLA, INC., et al.

**REPORT AND RECOMMENDATION  
REGARDING SCHEDULE AND  
TRIAL DATE**

**AND**

**INTERIM SCHEDULING ORDER**

**AND RELATED CASES**

To the Honorable Claudia Wilken, United States District Judge: The special master respectfully submits the following Report and Recommendation.

On March 14, 2013, the special master heard motions by Tessera to extend certain scheduled dates. At the conclusion of the hearing, the parties were given time to meet and confer regarding scheduling, and they proposed a revised schedule to the special master on March 22.

Their proposed schedule includes postponing the present trial date from April 7, 2014 to August 25, 2014, as well as making other included changes in the schedule. It is important to note that their proposed schedule is agreed upon by all of the parties to these cases except

Qualcomm. The agreement of some of the defendants is conditional upon the special master recommending some change to the present schedule, but the special master does so.

The special master concludes that some modifications to the present schedule are necessary, because of: (1) an extremely large volume of discovery that was produced on the last day for the completion of discovery; (2) late and voluminous changes to certain discovery information previously submitted; (3) the necessity for adequate time for the experts' testing and work between the opening reports and the rebuttal reports; and (4) extreme time pressure on the court-appointed expert.

For the Court's convenience, the calendar of the current schedule and the proposed changes are set forth in Exhibit A to this Report and Recommendation.

Because the proposed schedule would include changes in the trial date and other hearings before Your Honor, the special master has no authority to order such changes. And the special master does not know what impact the changes might have on Your Honor's overall calendar.

The special master does recommend the proposed schedule set forth in Exhibit B, but of course subject to Your Honor's concurrence. If Your Honor does approve, the following Interim Order is moot.

### **INTERIM ORDER**

Because other scheduled dates, primarily the preparation of expert reports, are imminent, and because Your Honor may take some time before ruling upon the above recommendation or may deny the recommendation, Tessera requests that some interim dates, not impacting the trial date or court hearings, should be adjusted now for the benefit of the parties and their experts. Those proposed interim changes are opposed by defendants, primarily because of some shortening their time for the preparation of rebuttal expert reports. That concern has been reduced in the order below. And the recently submitted volume of discovery and discovery changes are such that the special master concludes that additional time should, in the interests of justice, be granted for the assimilation of that information. The special master's signature below is therefore an order adopting the following interim schedule, since it does not involve changing

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the trial or other scheduled court dates. This order is of course subject to review by Your Honor.

1. The deadline for Tessera's opening infringement and damages reports, including invalidity reports, shall be due on **May 8, 2013**.

2. Rebuttal expert reports for all parties shall be due on **August 1, 2013**.

3. The deadline for completing party expert depositions and *Markman* discovery shall be **August 16, 2013**.

4. The deadline for the court-appointed expert report shall be **September 16, 2013**.

5. The deadline for deposing the court-appointed expert shall be **September 23, 2013**.


6. The expert discovery cutoff shall be **September 27, 2013**.

7. The opening *Markman* and SJ briefs shall be due on September 30, 2013.

All other dates in the current schedule remain unaffected.

This Interim Order is subject to further changes as a result of any order entered by the Honorable Claudia Wilken in response to the above Report and Recommendation.

Dated: March 25, 2013

  
Hon. Charles A. Legge (Ret.),  
Special Master

The report and recommendation of the special master is:

Approved and Adopted

March 28, 2013

  
Hon. Claudia Wilken, U.S.D.J.

**EXHIBIT A**

	<b>Current Schedule</b>	<b>Joint Proposal</b>
Opening expert reports	4/15/13	5/31/13
Rebuttal expert reports	7/15/13	8/30/13
Complete party expert depositions and <i>Markman</i> discovery	8/5/13	10/1/13
Court-appointed expert report due	8/31/13	12/20/13
Court-appointed expert deposition deadline	9/14/13	1/17/14
Expert discovery cutoff	9/20/13	1/17/14
Opening <i>Markman</i> and SJ briefs due	9/23/13	2/3/14
<i>Markman</i> and SJ hearing	12/5/13	4/24/14
<b>Trial</b>	<b>4/7/14</b>	<b>8/25/14</b>

**EXHIBIT B**

<b>Event</b>	<b>Date</b>
Opening Party Expert Reports	May 31, 2013
Tessera to Submit Trial Plan	July 1, 2013
Rebuttal Party Expert Reports	August 30, 2013
Defendants to Move for Severance and Submit Alternate Trial Plan	September 3, 2013
Complete Party Expert Depositions and L.R. 4-4 Claim Construction Discovery	October 1, 2013
Court-Appointed Expert Report	December 20, 2013
Complete Deposition of Court-Appointed Expert	January 17, 2014
Expert Discovery Cut-Off	January 17, 2014
Tessera's Opening Brief on Claim Construction and Summary Judgment	February 3, 2014
Defendants' Responsive Briefs on Claim Construction and Summary Judgment	February 26, 2014
Tessera's Reply Brief on Claim Construction and Summary Judgment	March 12, 2014
Defendants' Reply Briefs on Claim Construction and Summary Judgment	March 26, 2014
Court-Appointed Expert to Provide Advisory Opinion on Claim Construction	April 11, 2014
Hearing on Claim Construction and Summary Judgment Motions	April 24, 2014
Final Pretrial Conference	July 30, 2014
Jury Trial Begins	August 25, 2014